

Office of the Secretary of Labor

§ 37.100

(3) If the Governor is able to secure voluntary compliance under paragraph (b)(1) of this section, he or she must submit to the Director for approval, as applicable:

(i) Written assurance that the required action has been taken, as described in § 37.96;

(ii) A copy of the Conciliation Agreement, as described in § 37.97; or

(iii) Both.

(4) The Director may disapprove any written assurance or Conciliation Agreement submitted for approval under paragraph (b)(3) of this section that fails to satisfy each of the applicable requirements provided in §§ 37.96 or 37.97.

(c) *Violations in National Programs.* Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of WIA or this part has occurred in a National Program, he or she must notify the Federal grantmaking agency and the recipient by issuing a Letter of Findings, Notice to Show Cause, or Initial Determination, as appropriate, under §§ 37.62 or 37.63, 37.66 and 37.67, or 37.91, respectively. The Director may secure compliance with the nondiscrimination and equal opportunity provisions of WIA and this part through, among other means, the execution of a written assurance and/or Conciliation Agreement under §§ 37.96 or 37.97, as applicable.

§ 37.96 What are the required elements of a written assurance?

A written assurance must provide documentation that the violations listed in the Letter of Findings, Notice to Show Cause or Initial Determination, as applicable, have been corrected.

§ 37.97 What are the required elements of a Conciliation Agreement?

A Conciliation Agreement must:

(a) Be in writing;

(b) Address each cited violation;

(c) Specify the corrective or remedial action to be taken within a stated period of time to come into compliance;

(d) Provide for periodic reporting on the status of the corrective and remedial action;

(e) Provide that the violation(s) will not recur; and

(f) Provide for enforcement for a breach of the agreement.

§ 37.98 When will the Director conclude that compliance cannot be secured by voluntary means?

The Director will conclude that compliance cannot be secured by voluntary means under the following circumstances:

(a) The grant applicant or recipient fails or refuses to correct the violation(s) within the time period established by the Letter of Findings, Notice to Show Cause or Initial Determination; or

(b) The Director has not approved an extension of time for agreement on voluntary compliance, under § 37.95(b)(1)(ii), and he or she either:

(1) Has not been notified, under § 37.95(b)(3), that the grant applicant or recipient has agreed to voluntary compliance;

(2) Has disapproved a written assurance or Conciliation Agreement, under § 37.95(b)(4); or

(3) Has received notice from the Governor, under § 37.95(b)(2), that the grant applicant or recipient will not comply voluntarily.

§ 37.99 If the Director concludes that compliance cannot be secured by voluntary means, what actions must he or she take?

If the Director concludes that compliance cannot be secured by voluntary means, he or she must either:

(a) Issue a Final Determination;

(b) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(c) Take such other action as may be provided by law.

§ 37.100 What information must a Final Determination contain?

A Final Determination must contain the following information:

(a) A statement of the efforts made to achieve voluntary compliance, and a statement that those efforts have been unsuccessful;

(b) A statement of those matters upon which the grant applicant or recipient and CRC continue to disagree;

(c) A list of any modifications to the findings of fact or conclusions that

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were set forth in the Initial Determination, Notice to Show Cause or Letter of Findings;

(d) A statement of the grant applicant's or recipient's liability, and, if appropriate, the extent of that liability;

(e) A description of the corrective or remedial actions that the grant applicant or recipient must take to come into compliance;

(f) A notice that if the grant applicant or recipient fails to come into compliance within 10 days of the date on which it receives the Final Determination, one or more of the following consequences may result:

(1) After the grant applicant or recipient is given the opportunity for a hearing, its WIA Title I funds may be terminated, discontinued, or withheld in whole or in part, or its application for such funds may be denied, as appropriate;

(2) The Secretary of Labor may refer the case to the Department of Justice with a request to file suit against the grant applicant or recipient; or

(3) the Secretary may take any other action against the grant applicant or recipient that is provided by law;

(g) A notice of the grant applicant's or recipient's right to request a hearing under the procedures described in §§ 37.112 through 37.115; and

(h) A determination of the Governor's liability, if any, under § 37.52.

§ 37.101 Whom must the Director notify of a finding of noncompliance?

Where a compliance review or complaint investigation results in a finding of noncompliance, the Director must notify:

- (a) The grant applicant or recipient;
- (b) The grantmaking agency; and
- (c) The Assistant Attorney General.

BREACHES OF CONCILIATION AGREEMENTS

§ 37.102 What happens if a grant applicant or recipient breaches a Conciliation Agreement?

When it becomes known to the Director that a Conciliation Agreement has been breached, the Director may issue

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a Notification of Breach of Conciliation Agreement.

§ 37.103 Whom must the Director notify about a breach of a Conciliation Agreement?

The Director must send a Notification of Breach of Conciliation Agreement to the Governor, the grantmaking agency, and/or other party(ies) to the Conciliation Agreement, as applicable.

§ 37.104 What information must a Notification of Breach of Conciliation Agreement contain?

A Notification of Breach of Conciliation Agreement must:

(a) Specify any efforts made to achieve voluntary compliance, and indicate that those efforts have been unsuccessful;

(b) Identify the specific provisions of the Conciliation Agreement violated;

(c) Determine liability for the violation and the extent of the liability;

(d) Indicate that failure of the violating party to come into compliance within 10 days of the receipt of the Notification of Breach of Conciliation Agreement may result, after opportunity for a hearing, in the termination or denial of the grant, or discontinuation of assistance, as appropriate, or in referral to the Department of Justice with a request from the Department to file suit;

(e) Advise the violating party of the right to request a hearing, and reference the applicable procedures in Section 37.111; and

(f) Include a determination as to the Governor's liability, if any, in accordance with the provisions of § 37.52.

§ 37.105 Whom must the Director notify if enforcement action under a Notification of Breach of Conciliation Agreement is commenced?

In such circumstances, the Director must notify:

- (a) The grantmaking agency; and
- (b) The Governor, recipient or grant applicant, as applicable.